



28 Bridgeside Blvd.
Mt. Pleasant, SC 29464
o. 843.216.9000 f. 843.216.9450

Fred Thompson III
Licensed in South Carolina
direct: 843.216.9118
fthompson@motleyrice.com

January 23, 2024

VIA ECF

The Honorable Richard Mark Gergel
U.S. District Court for the District of South Carolina
J. Waites Waring Judicial Center
83 Meeting Street
Charleston, South Carolina 29401

Re: *In re AFFF Products Liability Litigation*, MDL No. 2:18-mn-2873-RMG

Dear Judge Gergel:

On behalf of Class Counsel, we write to request that the Court require the objectors, City of DuPont and City of Vancouver, to appear at the Final Fairness Hearing to address their Objections.

Class Counsel discovered that on November 28, 2023, the City of DuPont's City Council voted to formally adopt a Resolution to accept the 3M Settlement Agreement as a qualifying class member, "... authoriz(ing) the Mayor and his staff to authorize and/or engage in any necessary actions for the City to act as a claimant in the 3M Settlement."¹ An identical resolution was passed with respect to the DuPont settlement.² In stark contrast, Counsel for the City of DuPont, the Marten Law Firm, has interposed and reasserted in their Reply in Support of Objections,³ class certification Objections such as predominance and conflict, which, if sustained, would be fatal to class certification and thus the very settlements that the City of DuPont adopted formal resolutions to accept. Put another way, the City of DuPont wants to proceed with a classwide settlement, while its counsel is arguing that no class can be certified in this litigation because of fatal Rule 23 problems.

Given the irreconcilable differences between these two positions, and other recently discovered discrepancies⁴ between Marten Law Firm's Objections and the City of DuPont's publicly held positions, Class Counsel requests that the City of DuPont and the City of Vancouver (which filed

¹ Nov. 28, 2023 Regular City Council Meeting Agenda, Agenda Item #9.9.1, at 105 of 139, available at: <https://dupont.civicweb.net/filepro/documents/58464/?preview=139471>, attached as "Exhibit A."

² Exhibit A, Agenda Item #9.9.2, at 123 of 139.

³ Reply in Support of Objections [ECF No. 4346], a 2 n.1.

⁴ A complete discussion of the issues surrounding the clients of Marten Law are presented in plaintiff's proposed sur reply, which is separately being filed today.



January 23, 2024
Page 2

nearly verbatim Objections) be compelled to appear at the Final Fairness Hearing to address the Court so the Court can determine whether the Objections purportedly raised on their behalf, including those to any classwide relief, in fact reflect the position of the Class Members or those of counsel.

We thank the Court for its continued time and courtesies.

Respectfully submitted,

Fred Thompson III
Plaintiffs' Liaison Counsel

Enclosures

cc: Plaintiffs' Co-Lead Counsel (via electronic mail)
Defense Liaison Counsel (via electronic mail)
Jeff Kray, Esquire (via electronic mail)